

IN THE WEST VIRGINIA SUPREME COURT OF APPEALS

AT CHARLESTON

COPY

BARBARA CONLEY-DEITZ,

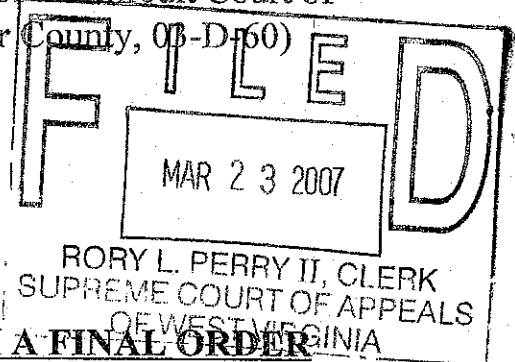
Petitioner,
Petitioner below.

vs.

Case Action No. _____
(Appeal from a January 12, 2007
Order of the Circuit Court of
Gilmer County, 03-D-60)

BILLY HARRAH DEITZ,

Respondent,
Respondent below.



PETITION FOR AN APPEAL FROM A FINAL ORDER

Comes now the Petitioner, **BARBARA CONLEY-DEITZ**, Petitioner below, by her attorney, James Wilson Douglas, pursuant to Rule 4 of the Rules of Appellate Procedure of the West Virginia Supreme Court of Appeals, and in and for her Petition, does aver, depose and say, as follows:

STANDARDS OF REVIEW

Petitioner maintains that the appropriate standards of review for the issues presented hereinafter are *abuse of discretion* and *de novo*.

NATURE OF THE PROCEEDING AND RULING BELOW

Following final divorce proceedings before Family Court Judge, Larry S. Whited, on the 26th day of May, 2005 and the 19th day of July, 2005, the Petitioner, Barbara Conley-Deitz, represented by her attorney, the undersigned James Wilson Douglas of Sutton, West Virginia, was divorced on the ground of adultery from the Respondent, Billy Harrah Deitz, whose counsel throughout was David Karickhoff, also of Sutton, West Virginia. The Final Divorce Decree was not entered until August 15, 2005.

For the purposes of this Petition, the principal findings, conclusions and commensurate order of the Family Court Judge within the said August 15, 2005 Final Divorce Decree was that the Respondent, in violation of a January 20, 2004 Agreed Temporary Order: (1) had sold a marital asset, being a gas well service/drilling rig for \$150,000.00 during the pendency of the case, but he could only account for \$50,000.00 of the proceeds; and (2) had attempted to perpetrate a fraud upon the Court by a foreclosure scheme in connection with the purchase of the Parties' marital home after separation but before the final hearings below.

The Family Court Judge had also ordered lump sum spousal support of \$15,000.00 payable to the Petitioner Wife from the Respondent Husband on September 1 of 2005, 2006 and 2007, for a total in gross payment of \$45,000.00.

Moreover, said Final Divorce Decree ordered the Respondent to pay delinquent alimony and automobile installments, as a default alimony, that he had failed to pay under the aforesaid January 20, 2004 Temporary Order.

The Respondent Husband's September 14, 2005 Petition for Review to the Circuit Court of Gilmer County was denied and the Family Court Judge's August 15, 2005 Final Divorce Decree was affirmed in all respects on October 4, 2005. There was no appeal to this august body.

The lack of success in overturning the August 15, 2005 Final Divorce Decree was no deterrent to the Respondent, who continued to ignore not only the new features of the aforesaid Final Divorce Decree, but also, the First Contempt Order contained therein, and the still outstanding obligations of the January 20, 2004 Temporary Order cited above.

Failing thus to make even a token payment toward the amounts he had been directed to tender, the Petitioner sought a Second Petition for Contempt and Rule to Show Cause, which was heard and awarded on February 21, 2006. This most recent Final Order, entered on March 8, 2006, gave the Respondent Husband an opportunity until March 15, 2006 to purge himself of the two (2) forgoing contempt citations; however, instead of making even a symbolic effort of purging his contempt, the Respondent Husband hastily sold the Deitz Car Wash

business, a former martial asset, and paid some other personal obligations, which did not include one cent to the Petitioner Wife. Respondent Husband then entered the Central Regional Jail two (2) days late, or on March 17, 2006, and served forty-five (45) days, and added the February 21, 2006 Final Order on (Second) Petition for Contempt to the list of court orders he was refusing to obey.

Upon his release from the Central Regional Jail on or about May 4, 2006, the Respondent, whose rent, pets in residence and maintenance of his Charles Street home had been inexplicably provided by unknown benefactors during his incarceration, was able immediately to purchase a new 2006 truck by drawing upon the funds of "good" friends for a "loan". Predictably, the Petitioner Wife was not the recipient of any of the loan proceeds.

Outraged by the Respondent's apparent impunity in defying court orders while he openly flaunted his access to money, the Petitioner filed her Third Petition for Contempt on May 16, 2006, the issued Rule to Show Cause of which was scheduled for hearing on June 12, 2006. His patience obviously wearing thin, Family Court Judge Whited, citing the aforesaid new truck purchase, the \$100,000.00 drilling rig monies still unaccounted for, and the Twenty-Seven Thousand One Hundred Two Dollars (\$27,102.00) in obligations that the Respondent Husband had failed and refused to satisfy, ordered that the

Respondent had one week or until June 19, 2006 to purge himself from the Third Contempt, or face a second jail sentence not to exceed six (6) months. The Final Order on Third Petition for Contempt and Jail Commitment Order was entered by the Family Court Judge on June 19, 2006.

Later admitting to an *ex parte* communication from the Respondent Husband's former counsel, Timothy B. Butcher, as the moving force, the Honorable Jack Alsop, the presiding judge below, entered a *sua sponte* Order on the same day, June 19, 2006, staying the enforcement of the Family Court Judge's June 19, 2006 Final Order on Third Petition for Contempt and Jail Commitment Order, a goodly portion of which dealt with spousal support.

Worthy of note is that there was no motion to stay, no plea to reconsider, no petition for a writ of prohibition, no petition for review, nor any other pleading filed at this point by anyone on behalf of the Respondent Husband.

At a June 29, 2006 hearing on the *sua sponte* Order of the Circuit Judge below, Judge Alsop admitted that his aforesaid June 19, 2006 Stay Order was born as a direct result of his *ex parte* communication with attorney Tim Butcher, who had been disqualified on August 17, 2004 from representing Respondent's interest because of a conflict due to past associations with the Petitioner. The trial court then continued the Stay, by Order entered July 6, 2006,

and advised the Respondent on the record that he had thirty days from June 19, 2006 to file a petition for review, either through counsel or by a *pro se* petition.

Of course, the Respondent filed his Petition for Review on the last day to do so, or July 19, 2006, and Petitioner answered with her July 20, 2006 Reply to Petition for Review, and then the Circuit Court of Gilmer County heard the same on October 10, 2006 and thereafter took the issue under advisement.

While the Petitioner was experiencing extreme financial hardship including being the defendant in collections and a civil action filed by the credit card companies whose debts the Respondent had first agreed to pay, and then been directed to pay, the Circuit Court below consumed over three (3) months in reaching a decision. By his January 12, 2007 Remand Order, Judge Alsop ruled that the Family Court Judge had been correct in his finding of contempt, but the trial court below reversed the Family Court Judge on the matter of incarceration, and the Circuit Court then ordered that the penal aspects of its decision be remanded to the Family Court Judge to enter an order that allowed the Respondent Husband who had never accounted for \$100,000.00, who had perpetrated a fraud upon the Court regarding the marital home, who had sold a former marital business before incarceration and who had bought a new 2006 truck immediately upon release from jail, to make Petitioner payments of \$400.00 per his two (2)

payday working month.

The Family Court Judge dutifully entered a February 5, 2007 Order on Remand consistent therewith, hence, Petitioner advances this Petition for Appeal.

STATEMENT OF THE FACTS OF THE CASE

The Petitioner filed for divorce against her Respondent Husband in 2003 and a January 20, 2004 Agreed Temporary Order was entered which required the Respondent Husband to pay: (1) \$350.00 per month in temporary spousal support; (2) the car payment and automobile insurance premium on the marital 2002 GMC Yukon vehicle that Petitioner was driving to and from her nursing classes; and, (3) marital credit card debt in monthly installments.

After the aforesaid Temporary Hearing, Respondent Husband's attorney Timothy B. Butcher, of Glenville, West Virginia, was disqualified on August 17, 2004 from continuing his representation of the Respondent due to a conflict of interest. Subsequent thereto, the Respondent obtained the services of David Karickoff, Esq., of Sutton, West Virginia. Being unsuccessful in reducing the temporary alimony, the Respondent Husband, without any corresponding decrease in his life style, unilaterally ceased paying the temporary alimony, the Yukon payment, the auto insurance premiums for coverage on the same, and the

monthly credit card installments.

Petitioner and the Respondent, who were married for three years and had no children, were divorced on the ground of Respondent's adultery by Final Divorce Decree from the Family Court of Gilmer County, West Virginia, signed August 15, 2005. The Respondent Husband was also found to be in Contempt of a aforesaid January 20, 2004 Agreed Temporary Order, the hearing for which was held on the same day as the divorce proper.

The Honorable Larry S. Whited, Family Court Judge, found as a matter of fact, *inter alia*, in Paragraphs 19. through 21. of said Final Divorce Decree that, in violation of the Temporary Order aforesaid, that the Respondent Husband had sold a marital asset, namely a well service drilling rig, for \$150,000.00 during the pendency of the divorce; however, the Respondent Husband could only account for about \$50,000.00 of the proceeds received from said August 9, 2004 illicit sale of the marital asset. In addition, the Family Court Judge found as a matter of fact, *inter alia*, in Paragraphs 24. through 25. of said Final Divorce Decree that the Respondent Husband had attempted to perpetrate a fraud upon the Court and deprive the Petitioner Wife of her distributive share in the equity of the former marital home, situate at 109 Charles Street, Glenville, West Virginia, by participating in a scheme to cause the marital home to be

forfeited to the private financiers, while the Respondent Husband continued to live in the marital home, improve upon the same at his cost, and make a "rental" payment that precisely equaled the former house payment to the same persons, now landlords, who had been financing the purchase before foreclosure.

Continuing, the Family Court Judge found, *inter alia.*, that the Respondent has failed, neglected and refused to make the timely monthly payments on the Petitioner's 2002 GMC Yukon; and, that the Respondent has failed, neglected and refused to make the monthly temporary spousal support payments to the Petitioner, both omissions contrary to the aforesaid Agreed Temporary Order.

In an effort to compensate for the absence of equality in the marital distribution to the Petitioner Wife, the Family Court Judge ordered the Respondent Husband to pay alimony in gross in the total amount of \$45,000.00, by three equal annual payments of \$15,000.00 each, due on September 1, 2005, September 1, 2006 and September 1, 2007. Furthermore, the Family Court Judge ordered the Respondent Husband (1) to reimburse the Petitioner Wife for the Yukon installments that he had not made under the Agreed Temporary Order, and, (2) to pay the temporary alimony arrearage. Lastly, the Family Court Judge awarded the Petitioner Wife the sum of \$5000.00 in attorney fees against the Respondent

Husband.

There was another collateral but significant facet of the Family Court Judge's findings, conclusions and order: Citing West Virginia Code §48-7-103 and §48-7-104, the Family Court Judge reserved jurisdiction to the effect and for the purpose that should the Respondent and/or any subsequent spouse ever acquire a proprietary interest in the marital realty located at 109 Charles Street, Glenville, West Virginia, then the Court would deem the Parties hereto as owners of said real estate, because the Respondent had acted in collusion and with an intent to defraud the Family Court; and, in such event, the Petitioner Wife would receive a one-half (½) interest in and to said property at that time.

The Respondent Husband filed a September 14, 2005 Petition for Review of the Family Court Judge's aforesaid August 15, 2005 Final Divorce Decree, which was refused by the Circuit Court of Gilmer County, the Honorable Jack Alsop presiding, on October 4, 2005. This refusal of the Circuit Court to overturn the rulings of the Family Court Judge was never appealed, and the same is and has been final in all respects.

Indulging in self-help, the Respondent Husband never made one (1) payment to the Petitioner Wife of the amounts ordered by the Family Court Judge in said Final Divorce Decree, despite the Respondent Husband's retaining the

former marital well service enterprise and car wash business. Meanwhile, the Petitioner Wife was economically struggling to complete a practical nursing degree.

Attempting to force compliance with the Final Divorce Decree and realize the relief awarded thereunder, the Petitioner Wife filed her September 1, 2005 Petition for Contempt, which, after the issuance of a Rule to Show Cause, was not heard until February 21, 2006, resulting in a Final Order on (Second) Petition for Contempt entered on March 8, 2006. The finding of contempt was made on February 21, 2006 and gave the Respondent Husband until March 15, 2006 to purge himself of contempt by the forthwith payment of the delinquent September 1, 2005 lump sum alimony, the attorney fees awarded to the Petitioner and the long overdue temporary alimony and Yukon payments, or the Respondent would be imprisoned for a period of forty-five (45) days.

Attempting to avoid the penal aspects of the Family Court Judge's contempt sentence, the Respondent offered to pay all amounts owing Petitioner Wife, in full, *if* she would release the Charles Street (marital home) contingent proprietary interest for future equitable distribution reserved by the Family Court Judge in the Findings of Fact, Paragraphs 24. and 25. of his August 15, 2005 Final Divorce Decree. Petitioner Wife refused.

Being thus committed to defying the Court's Order, and believing incarceration to be imminent, the Respondent Husband immediately divested himself of the car wash business, but he paid the Petitioner Wife nothing from the sale proceeds in satisfaction of his obligations to the Petitioner Wife under the Final Divorce Decree.

Rather than pay and comply with the Court's orders, the Respondent Husband accepted incarceration and entered the Central Regional Jail on or about March 21, 2006 and served the 45 day sentence of the Family Court Judge in full. Immediately upon being released on or about May 4, 2006, the Respondent purchased with borrowed funds, according to him, a new 2006 truck vehicle; however, he did not utilize his borrowing power to satisfy the first dollar of his court ordered obligation to the Petitioner Wife.

Upon discovering the sale of the Respondent Husband's car wash business prior to incarceration, and being advised of the Respondent's new vehicle purchase, as well as, being mindful of the Respondent Husband's failure to account for \$100,000.00 of his improper sale of the marital well service rig, the Petitioner Wife, by now in desperate financial straits, filed her Third Petition for Contempt on or about May 16, 2006 and received a Rule to Show Cause the same day. In a transparent maneuver to gain either time or sympathy, the Respondent

Husband discharged his attorney David Karickhoff on June 8, 2006, or just four (4) days prior to the scheduled June 12, 2006 contempt hearing.

The Family Court Judge conducted a hearing on June 12, 2006, and permitted the Respondent until June 19, 2006 to satisfy the former August 15, 2005 Final Divorce Decree and the March 8, 2006 Final Order on (Second) Contempt, or be incarcerated for an additional six (6) months, unless he sooner paid the outstanding amounts. These contempt findings of the Family Court Judge were contained in a Final Order On Third Petition for Contempt entered with a Jail Commitment Order and Capias, by coincidence, on June 19, 2006.

On that same day, June 19, 2006, Circuit Court Judge Alsop, through an *ex parte* communication with Timothy B. Butcher, Esquire, a Glenville attorney who had been disqualified in August 2004 from representing the Respondent, and without any written motion for *ex parte* relief, written appeal or written petition for extraordinary writ having been made by the Respondent Husband, entered an Order, *sua sponte*, staying the incarceration of the Respondent and setting a hearing, on the Court's own Motion, for June 28, 2006 at 1:00 p.m., which hearing was later continued to June 29, 2006 at 1:00 p.m.

At said June 29, 2006 hearing, Judge Alsop recited on the record and in open Court, that he was approached by Attorney Butcher, as stated hereinabove,

who asked Judge Alsop to review the aforesaid Contempt Order which resulted in the *sua sponte* order staying the incarceration of the Respondent. The interim ruling at the June 29, 2006 hearing by Circuit Court Judge Alsop was a stay of the aforesaid Final Order on Third Petition for Contempt, and the Court below advised the Respondent that he, the Respondent, had thirty (30) days in which to file a Petition for Review of the June 12, 2006 Final Order on Third Petition for Contempt (entered June 19, 2006), which the Respondent did on July 19, 2006.

The Respondent's Petition for Review and the Respondent's Response thereto was set by Judge Alsop via Order of July 27, 2006, and argued before the learned jurist on October 10, 2006.

Taking three (3) months to decide the same, with the June 19, 2006 Stay being in effect the whole time, Judge Alsop issued his January 12, 2007 Remand Order on the Respondent's Petition for Review affirming the Family Court Judge's June 12, 2006 contempt citation of the Respondent, but reversing the incarceration portion of the same Order of the of the Family Court Judge. In essence, while agreeing that the Respondent was in contempt of the prior orders of the Court, the Circuit Judge below blocked the compulsory features of the contempt citation and directed the Family Court Judge on remand to adopt the

Circuit Judge's concept of contempt punishment and the purging of contempt: the Respondent was to remain gainfully employed and pay the Petitioner Wife through the Clerk's Office \$400.00 from each paycheck within 24 hours of receiving the same.

The Family Court Judge on Remand followed the mandate of the Circuit Court by entering a consistent Remand Order on February 8, 2007, thereby necessitating this Petition for Appeal.

ERRORS ASSIGNED

1. May a circuit judge intervene *sua sponte* in a family court judge's administration of a contempt remedy, based upon the a circuit court's *ex parte* communication with an attorney who was disqualified from representation in the underlying divorce action?

2. May a circuit court judge stay on appeal a contempt order that is attempting, in part, to enforce an alimony award?

3. May a circuit court judge impose a limit upon a Family Court Judge's prospective application of a coercive sanction to enforce an alimony award?

POINTS, AUTHORITY AND DISCUSSION OF LAW

I

**JURISDICTION REMAINS WITH THE FIRST ACQUIRING
COURT AS BETWEEN COURTS WITH CONCURRENT JURISDICTION**

West Virginia Circuit Courts and Family Courts have concurrent jurisdiction regarding domestic relations matters. *Lindsie D.L. v. Richard W.S.*, 214 W.Va. 750, 591 S.E.2d 308 (2003). As a general rule, the court first acquiring jurisdiction retains it for all purposes, including the enforcement of its judgments; i.e., contempt powers. *McGrew v. Maxwell*, 80 W.Va. 718, 94 S.E. 395 (1917); *Smith v. Winters*, 146 W.Va. 1018, 124 S.E.2d 240 (1962). The long honored legal maxim that applies is *qui prior est tempore, potior est jure*.

Taken to its unadorned conclusion, when one court of two courts having concurrent jurisdiction obtains jurisdiction of a proceeding, then the first court should be allowed to move unmolested toward a final resolution of all issues. *Ex parte Page*, 77 W.Va. 467, 87 S.E. 849 (1916). This rule applies equally to courts of record, inferior statutory courts and even magistrate courts.

Id.

When the Circuit Court below intervened in the ongoing enforcement of the Family Court Judge's decree in contempt against the recalcitrant Respondent Husband, not on the basis of any motion, petition or extraordinary writ made to the Circuit Court, but predicated solely on the out-of-court

intercession or suggestion by an attorney who had been disqualified from participating in the proceedings for nearly a two year period, the above fundamental tenets of concurrent jurisdiction were brazenly violated. But, it is more than this.

If one considers that the trial court, acting as an appellate court, entered the alleged *sua sponte* Stay Order of June 19, 2006 grounded only on an *ex parte* communication from a lawyer formerly removed from the underlying divorce action, Circuit Court Judge Alsop's impartiality might reasonably be questioned. This is especially telling when Judge Alsop directed the Respondent Husband to file an appeal within thirty (30) days of his June 19, 2006 Stay Order, which was extended on June 29, 2006. See Canon 3 E. (1)(a), West Virginia Code of Judicial Conduct. Indeed, given the above factual recitation, the continuance of Circuit Judge Alsop in this case on the appellate level regarding the Family Court Judge's June 19, 2006 Final Order on Third Petition for Contempt, was improper or did create an appearance of impropriety. See Canon 2, A. and B., West Virginia Code of Judicial Conduct.

II

A DECREE AWARDING ALIMONY CANNOT BE STAYED

PENDING REVIEW

West Virginia Code §51-2A-12(c) does not permit a stay of an order awarding the payment of child support or spousal support pending appeal. In the case *sub judice*, Family Court Judge Whited had approved a January 20, 2004 Agreed Temporary Order for the payment of alimony *pendente lite*, and the same Family Court Judge had ultimately entered the August 15, 2005 Final Divorce Decree, awarding alimony in gross. After all appeals had been exhausted by the Respondent Husband, who still refused but had the ability to pay alimony, the Family Court Judge, through the regular exercise of his legislatively given contempt powers, was attempting to give meaning and life to his prior award of spousal support, which had become final. One glaring question then remains unanswered going to the lawful authority of the Circuit Judge below to order an alimony collection stay, as posed in the next paragraph.

In essence, if a circuit court is statutorily prohibited from staying an alimony award pending appeal, how can a circuit court properly stay the collateral enforcement of that same alimony award that has become a final judgment?

III

A CIRCUIT COURT MAY NOT INDEFINITELY PRECLUDE A FAMILY COURT FROM EXERCISING ITS CONTEMPT POWERS

The January 12, 2007 Remand Order of the Circuit Court of Gilmer County affirmed the June 12, 2006 (entered June 19, 2006) contempt finding by

the Family Court Judge, but reversed the latter's imposition of commitment to jail as a means of compelling the Respondent Husband's compliance with the prior final orders of the Family Court. Specifically, on Page 9, paragraphs 1. and 3. thereof, the Circuit Court agreed that the Respondent was in contempt of the Family Court Judge's August 15, 2005 Final Divorce Decree; however, the Circuit Court, acting as an appellate tribunal, ruled that the Respondent Husband could purge himself of contempt by remaining gainfully employed, by making \$400.00 payments, within 24 hours of his receipt of said pay, to the Clerk of the Circuit Court, which monies would be promptly paid by the Clerk to the Petitioner Wife; and the Circuit Court directed the Family Court Judge to enter an order on remand consistent therewith.

Employing the Circuit Court's "\$400.00 x 2 Formula", and discounting any interest accumulations, the alimony obligations of \$27,102.00 levied upon the Respondent by the February 21, 2006 (entered March 8, 2006) Final Order on (Second) Petition for Contempt only, would not be retired by the Respondent until the lapse of thirty-four (34) months or nearly three (3) years from the date of Judge Alsop's Remand Order. The two additional lump sum spousal support payments of \$15,000.00 due on September 1, 2006, which was not paid, and the \$15,000.00 due on September 1, 2007, which will not be paid, would require an additional 37.5 months to satisfy, for a total payment schedule in excess

of five (5) years. Meanwhile, the Petitioner suffers privations and bill collectors.

The upshot of Judge Alsop's ruling establishing how the Respondent Husband is hereinafter, without time limit, to purge himself of contempt, essentially deprives the Family Court of authority and jurisdiction to enforce the prior decrees in this cause, which is clearly granted by legislative enactment. West Virginia Code §51-2A-9, §48-14-501, and §48-1-304. To limit the Family Court's remedial or coercive sanctions engaged to enforce decree compliance in this cause is an unlawful act of usurpation by the Circuit Court of Gilmer County, thereby warranting reversal. *State ex rel. Steven Michael M. v. Merrifield*, 203 W.Va. 723, 510 S.E.2d 797 (1998).

PRAYER

WHEREFORE, Petitioner prays that this Honorable Court order this Petition filed; that the same be promptly accepted, properly docketed and duly considered; that upon the facts stated, the reasons given and the authority cited, the January 12, 2007 Remand Order, Etc., of the Circuit Court of Gilmer County, West Virginia, the intermediate appellate trial court below, and the February 5, 2007 Remand Order of the Family Court Judge in the captioned proceedings, be **reversed**, set aside and held for naught; or in the alternative, that the same be **remanded with instructions**; that the aforesaid January 12, 2007 Remand Order, Etc., of the Circuit Court of Gilmer County, West Virginia and the February 5, 2007 Remand Order of the Family Court Judge in the captioned proceedings be

stayed pending appeal, pursuant to Rule 6 of the Rules of Appellate Procedure for the West Virginia Supreme Court of Appeals; and that Petitioner be granted such other and further relief as this Court may deem equitable, proper and just, and in the premises, meet, she will ever pray, etc.



BARBARA CONLEY-DEITZ

By Counsel

JAMES WILSON DOUGLAS, L.C.

Attorney at Law

181 B Main Street

Post Office Box 425

Sutton, West Virginia 26601

W.V. State Bar # 1050

Counsel for Petitioner

CERTIFICATE OF SERVICE

I, JAMES WILSON DOUGLAS, the undersigned attorney do hereby certify that true copies of the foregoing Petition for an Appeal from a Final Order and Designation of Record, were deposited in the regular United States mail in an envelope properly stamped and addressed to Billy Harrah Deitz, *pro se*, P. O. Box 159, Glenville, West Virginia, 26351, on this 16th day of March, 2007.


JAMES WILSON DOUGLAS

IN THE WEST VIRGINIA SUPREME COURT OF APPEALS

AT CHARLESTON

BARBARA CONLEY-DEITZ,
Petitioner,
Petitioner below.

vs.

Case Action No. _____
(Appeal from a January 12, 2007
Order of the Circuit Court of
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BILLY HARRAH DEITZ,
Respondent,
Respondent below.

DESIGNATION OF RECORD

Comes now the Petitioner, **BARBARA CONLEY-DEITZ**, by her Counsel, James Wilson Douglas, pursuant to Rule 4 (c) of the Rules of Appellate Procedure for the West Virginia Supreme Court of Appeals, and designates the following portions of the record necessary to decide the matters arising in the attached Petition:

- Final Divorce Decree entered: August 15, 2005
- Order Refusing Appeal entered: October 4, 2005
- Second Petition for Contempt filed: September 1, 2005
- Final Order on Petition for Contempt (2nd) entered: March 8, 2006
- Contempt Order, Jail Commitment Order and Capias entered: March 17, 2006

- Final Order on Third Petition for Contempt entered: June 19, 2006
- Jail Commitment Order and Capias entered: June 19, 2006
- *Ex parte, Sua Sponte* Order by Judge Alsop entered: June 19, 2006
- Stay of Final Order on Third Petition for Contempt entered: July 6, 2006
- Findings of Fact Conclusions of Law Order Affirming, in Part, and Reversing, in Part, Family Court Order on Third Petition for Contempt January 12, 2007, entered January 16, 2007
- Order on Remand February 5, 2007, entered February 8, 2007

BARBARA CONLEY-DEITZ

By Counsel



JAMES WILSON DOUGLAS, L.C.

Attorney at Law

181 B Main Street

Post Office Box 425

Sutton, West Virginia 26601

W.V. State Bar # 1050

IN THE WEST VIRGINIA SUPREME COURT OF APPEALS

AT CHARLESTON

BARBARA CONLEY-DEITZ,
Petitioner,
Petitioner below.

vs.

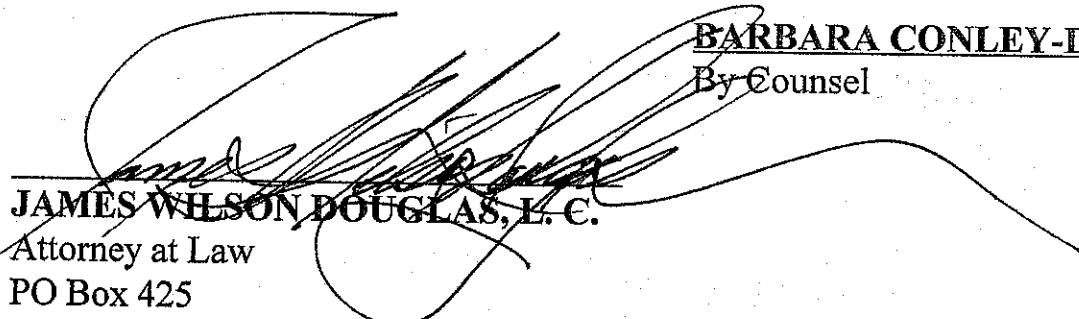
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(Appeal from a **January 12, 2007**
Order of the Circuit Court of
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BILLY HARRAH DEITZ,
Respondent,
Respondent below.

MEMORANDUM OF PARTIES

BILLY HARRAH DEITZ, Respondent,
P. O. Box 159,
Glenville, West Virginia, 26351

BARBARA CONLEY-DEITZ
By Counsel


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